

TRINIDAD AND TOBAGO.

No. 37.—1917.

I ASSENT,

[L.S.]

J. R. CHANCELLOR,  
*Governor.*

17th December, 1917

AN ORDINANCE relating to Imprisonment for Debt.

[17th December, 1917.]

**B**E it enacted by the Governor of Trinidad and Tobago with the advice and consent of the Legislative Council thereof as follows:—

1. This Ordinance may be cited as the Debtors' Ordinance, 1917. Short Title.

2. In this Ordinance, unless the context otherwise requires:— Interpretation.

“Civil Court” includes the Supreme Court and any Petty Civil Court;

“Petty Civil Court” means a Petty Civil Court under the Petty Civil Courts Ordinance, 1911;

“ Prescribed ” means prescribed by rules made under this Ordinance.

Abolition of imprisonment for debt, with exceptions.

3.—(1.) With the exceptions hereinafter mentioned, no person shall be arrested or imprisoned for making default in payment of a sum of money.

(2.) There shall be exempted from the operation of the above enactment :—

1. Default in payment of a penalty or sum in the nature of a penalty other than a penalty in respect of any contract :
2. Default in payment of any sum recovered summarily before a Magistrate not sitting as Judge of a Petty Civil Court or any Justice :
3. Default by a trustee or person acting in a fiduciary capacity and ordered to pay by a Civil Court any sum in his possession or under his control :
4. Default by a solicitor in payment of costs when ordered to pay costs for misconduct as such, or in payment of a sum of money when ordered to pay the same in his character of an officer of the Supreme Court :
5. Default in payment for the benefit of creditors of any portion of a salary or other income in respect of the payment of which any Court is authorised to make an order :
6. Default in payment of sums in respect of the payment of which orders are in this Ordinance authorised to be made :

Limitation of imprisonment.

Provided, first, that no person shall be imprisoned in any case excepted from the operation of this section for a longer period than one year ; and secondly, that nothing in this section shall alter the effect of any judgment or order of any Court for payment of money except as regards the arrest and imprisonment of the person making default in paying such money.

Power of committal in certain cases.

4.—(1.) Subject to the provisions hereinafter mentioned and to the rules made under this Ordinance, any Civil Court may commit to the Royal Gaol for a term not exceeding six weeks or until payment of the sum due any person who

makes default in payment of any debt or instalment of any debt due from him in pursuance of any order or judgment of that or any other competent Civil Court.

Provided that the jurisdiction by this section given of committing a person to prison shall in the case of a Petty Civil Court be exercised only subject to the following restrictions, that is to say—

- (a.) By an order made in open Court and showing on its face the ground on which it is issued ;
- (b.) In respect of a judgment of the Court making the order, or in the case of a judgment of another Court, where the amount actually due does not exceed £25 or is reduced by abandonment of excess to £25 and the judgment debtor is resident within the district of the Court ;
- (c.) A summons to a judgment debtor residing out of the district of any such Court shall not issue for service without the leave of the judge thereof, and in no case shall any such summons issue from a Petty Civil Court in Trinidad for service in Tobago or from a Petty Civil Court in Tobago for service in Trinidad ; and
- (d.) Where it is proved to the satisfaction of the Court that the person making default either has or has had since the date of the order or judgment the means to pay the sum in respect of which he has made default and has refused or neglected or refuses or neglects to pay the same.

(2.) Proof of the means of the person making default may be given in such manner as the Court thinks just, and for the purposes of such proof the debtor and any witnesses may be summoned and examined on oath according to the rules made under this Ordinance. Proof of means.

(3.) Any jurisdiction by this section given to the Supreme Court may be exercised by a Judge sitting in Chambers or otherwise in the prescribed manner. Chambers.

(4.) For the purposes of this section any Civil Court may direct any debt due from any person in pursuance of any Instalments.

order or judgment of that or any other competent Civil Court to be paid by instalments and may from time to time rescind or vary such order.

Imprisonment not to extinguish debt. (5.) No imprisonment under this section shall operate as a satisfaction or extinguishment of any debt or demand or cause of action or deprive any person of any right to take out execution against the lands, goods or chattels of the person imprisoned in the same manner as if such imprisonment had not taken place.

Discharge on payment. (6.) Any person imprisoned under this section shall be discharged out of custody upon a certificate signed in the prescribed manner to the effect that he has satisfied the debt or instalment of a debt in respect of which he was imprisoned together with the prescribed costs (if any).

Bankruptcy Ordinance. 5. Nothing in this Ordinance shall in any way affect any right or power under any Ordinance for the time being relating to Bankruptcy to arrest or imprison any person.

Rules. 6.—(1.) The Chief Justice with the concurrence of a Puisne Judge may make rules for the purpose of carrying out the provisions of this Ordinance and of fixing the fees payable in respect of all proceedings and matters under this Ordinance.

(2.) All rules made under this Ordinance shall be published in the *Royal Gazette*.

Fraudulently obtaining credit. 7. Any person shall in each of the cases following be deemed guilty of a misdemeanour, and on conviction thereof shall be liable to be imprisoned for any term not exceeding one year, with or without hard labour, that is to say :—

(1.) If in incurring any debt or liability he has obtained credit under false pretences, or by means of any other fraud ;

(2.) If he has, with intent to defraud his creditors, or any of them, made or caused to be made any gift, delivery or transfer of or any charge on his property ;

- (3.) If he has, with intent to defraud his creditors, concealed or removed any part of his property since or within two months before the date of any unsatisfied judgment or order for payment of money obtained against him.

8. The Debtors Ordinance (No. 37), the Debtors <sup>Repeal.</sup> (Amendment) Ordinance (No. 296), Ordinance No. 13 of 1908 and Section 14 of the Petty Civil Courts Ordinance, 1911, are hereby repealed.

Passed in Council this Seventh day of December in the year of Our Lord one thousand nine hundred and seventeen.

HARRY L. KNAGGS,  
*Clerk of the Council.*

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37

## THE DEBTORS' ORDINANCE, 1917

Table showing sources of Bill.

| PROVISIONS OF EXISTING LAW.                                      | CORRESPONDING SECTIONS IN BILL.   |
|--|---|
| <b>The Debtors Ordinance (No. 87)</b>                            |   |
| Sections 1, 2  | ... Sections 1, 2 of the Bill.  |
| Section 3  | ... Section 3 of the Bill.  |
| Section 4  | Section 4 of the Bill; but in the proviso are inserted amendments rendered necessary by Section 14 of No. 9 of 1911. Effect is also given in this Section to Section 2 of No. 13 of 1908. |
| Section 5  | ... Section 5 of the Bill.  |
| Section 6  | ... Section 6 of the Bill; but express power to make rules is conferred on the Chief Justice and a Puisne Judge. These rules are made expressly to extend to fees.                        |
| <b>The Debtors (Amendment) Ordinance (No. 296)</b>               |   |
| Sections 1, 2  | ... Are the sections dealing with the Short Title and interpretation of the Ordinance.  |
| Section 3  | ... This section is superseded by Section 14 of No. 9 of 1911, and its provisions appear in Section 4 of the Bill.  |
| Section 4  | ... Is included in Section 4 of the Bill so far as it relates to jurisdiction, and as regards other matters, these should be dealt with by rules under Section 6 of the Bill.             |
| Section 5  | ... Matter for rules under Section 6 of the Bill.   |
| Section 6  | ... These matters are dealt with in Section 44 of No. 9 of 1911.  |
| Section 7  | ... Is covered by Section 14 of No. 9 of 1911 and included in Section 4 of the Bill.  |
| An Ordinance to amend the Debtors (Amendment) Ordinance, No. 296 | ... See Section 4 (1) (c) of the Bill.  |
| <b>The Bankruptcy Ordinance, 1907</b>                            |   |
| Section 122  | ... See Section 7 of the Bill.  |

